

Part 2

Criminal Conspiracy

76-4-201 Conspiracy -- Elements of offense.

For purposes of this part a person is guilty of conspiracy when he, intending that conduct constituting a crime be performed, agrees with one or more persons to engage in or cause the performance of the conduct and any one of them commits an overt act in pursuance of the conspiracy, except where the offense is a capital felony, a felony against the person, arson, burglary, or robbery, the overt act is not required for the commission of conspiracy.

Amended by Chapter 209, 2001 General Session

76-4-202 Conspiracy -- Classification of offenses.

Conspiracy to commit:

- (1) a capital felony is a first degree felony;
- (2) a first degree felony is a second degree felony; except that conspiracy to commit child kidnaping, in violation of Section 76-5-301.1 or to commit any of those felonies described in Title 76, Chapter 5, Part 4, Sexual Offenses, which are first degree felonies, is a first degree felony punishable by imprisonment for an indeterminate term of not less than three years and which may be for life;
- (3) a second degree felony is a third degree felony;
- (4) a third degree felony is a class A misdemeanor;
- (5) a class A misdemeanor is a class B misdemeanor;
- (6) a class B misdemeanor is a class C misdemeanor;
- (7) A class C misdemeanor is punishable by a penalty not exceeding one half the penalty for a class C misdemeanor.

Amended by Chapter 40, 1996 General Session

76-4-203 Criminal solicitation -- Elements.

- (1) An actor commits criminal solicitation if, with intent that a felony be committed, he solicits, requests, commands, offers to hire, or importunes another person to engage in specific conduct that under the circumstances as the actor believes them to be would be a felony or would cause the other person to be a party to the commission of a felony.
- (2) An actor may be convicted under this section only if the solicitation is made under circumstances strongly corroborative of the actor's intent that the offense be committed.
- (3) It is not a defense under this section that the person solicited by the actor:
 - (a) does not agree to act upon the solicitation;
 - (b) does not commit an overt act;
 - (c) does not engage in conduct constituting a substantial step toward the commission of any offense;
 - (d) is not criminally responsible for the felony solicited;
 - (e) was acquitted, was not prosecuted or convicted, or was convicted of a different offense or of a different type or degree of offense; or
 - (f) is immune from prosecution.
- (4) It is not a defense under this section that the actor:

- (a) belongs to a class of persons that by definition is legally incapable of committing the offense in an individual capacity; or
 - (b) fails to communicate with the person he solicits to commit an offense, if the intent of the actor's conduct was to effect the communication.
- (5) Nothing in this section prevents an actor who otherwise solicits, requests, commands, encourages, or intentionally aids another person to engage in conduct which constitutes an offense from being prosecuted and convicted as a party to the offense under Section 76-2-202 if the person solicited actually commits the offense.

Amended by Chapter 278, 2013 General Session

76-4-204 Criminal solicitation -- Penalties.

- (1) Criminal solicitation to commit:
- (a) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;
 - (b) except as provided in Subsection (1)(c) or (d), a first degree felony is a second degree felony;
 - (c) any of the following offenses is a first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life:
 - (i) murder, Subsection 76-5-203(2)(a);
 - (ii) child kidnapping, Section 76-5-301.1; or
 - (iii) except as provided in Subsection (1)(d), any of the felonies described in Title 76, Chapter 5, Part 4, Sexual Offenses, that are first degree felonies;
 - (d) except as provided in Subsection (2), any of the following offenses is a first degree felony, punishable by a term of imprisonment of not less than 15 years and which may be for life:
 - (i) rape of a child, Section 76-5-402.1;
 - (ii) object rape of a child, Section 76-5-402.3; or
 - (iii) sodomy on a child, Section 76-5-403.1;
 - (e) a second degree felony is a third degree felony; and
 - (f) a third degree felony is a class A misdemeanor.
- (2) If, when imposing a sentence under Subsection (1)(d), a court finds that a lesser term than the term described in Subsection (1)(d) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
- (a) 10 years and which may be for life;
 - (b) six years and which may be for life; or
 - (c) three years and which may be for life.

Amended by Chapter 179, 2008 General Session